



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,777	04/06/2006	Nashiro Iwata	03500.102897.	2531
5514 7590 03/03/2011 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
NGUYEN, NGON BINH				
ART UNIT		PAPER NUMBER		
2625				
MAIL DATE		DELIVERY MODE		
03/03/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/574,777

Applicant(s)

IWATA ET AL.

Examiner

NGON NGUYEN

Art Unit

2625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 February 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-8 and 10-11

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

/Benny Q Tieu/
Supervisory Patent Examiner, Art Unit 2625

/NGON NGUYEN/
Examiner, Art Unit 2625

Continuation Sheet of 3 Note: The proposed amendment adds new limitation, for example, "wherein said operation panel is disposed between said display unit and said document ejecting port." to claim 1 which requires further consideration and search.

Continuation Sheet of 11:

1. Regarding claim 1, applicant argues that "Specifically, Claim 1 is directed to a FAX machine where "said operation panel is disposed between said display unit and said document ejecting port". It is to be understood that the scope of the claims is not limited by the details of this or any other embodiment that may be referred to". This argument is not persuasive because applicant's argument is based on the limitation that has not been entered.

2. Regarding claim 1, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (e.g.) "Furthermore, the output apparatus is capable of determining whether the paper to be conveyed is an original document or a recording sheet (see Abstract)" is not as recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 888 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3. Regarding claim 1, applicant further argues that "Applicants submit that the portion of Kuriyama cited in the Office Action as being relevant describes simply the path through which an original document is conveyed, without any indication that the orientation of such a path in the output apparatus is variable based on a user's preference (see Fig. 68; col. 2, lines 21-56)".

4. The examiner respectfully disagrees with applicant argument because as applied to claim rejection 1 above, in particular the following limitation:

"a document ejecting port arranged in a front portion of said apparatus main body for ejecting said original document";

Kuriyama et al. further discloses an original driving system, FIG 68, wherein an original G is fed in the direction M, FIG 68/M, into an inserting port and ejected out of an ejecting port, enables the design choices that allow the inserting port or ejecting port to be arranged in a front or in a back portion of a facsimile apparatus as user's desire. Uchiyama et al. discloses the original driving system, Uchiyama's FIG 1, facilitates using the design choice that has insert port in the back and the eject port in the front of a facsimile apparatus).

5. Regarding claim 1, applicant further argues that "Uchiyama is directed to a FAX machine which uses a relatively small number of types of rollers (see col. 1, lines 40-48). While it has an operational panel which might face the front, the FAX machine has no display unit (see Fig. 1). Even assuming that it were permissible to combine Kuriyama and Uchiyama, it would not be clear at all why one with ordinary skill in the art would specifically configure the resulting apparatus to have an operation panel in the upper portion, a document ejecting port in the front portion, and a display unit which faces the front and may overlap onto the operation panel, so that "said operation panel is disposed between said display unit and said document ejecting port", as recited in Claim 1. Even assuming that Hongoh did disclose everything for which it is cited, it is not believed to remedy the deficiency noted above. Therefore, Claim 1 is believed patentable over Kuriyama, Uchiyama and Hongoh, considered separately or in any permissible combination"

6. The examiner respectfully disagrees with applicant's argument because as applied to claim rejection 1 above, in particular the following limitations:

Regarding:

"a document ejecting port arranged in a front portion of said apparatus main body for ejecting said original document";

Kuriyama et al. further discloses an original driving system, FIG 68, wherein an original G is fed in the direction M, FIG 68/M, into an inserting port and ejected out of an ejecting port, enables the design choices that allow the inserting port or ejecting port to be arranged in a front or in a back portion of a facsimile apparatus as user's desire. Uchiyama et al. discloses the original driving system, Uchiyama's FIG 1, facilitates using the design choice that has insert port in the back and the eject port in the front of a facsimile apparatus);

Regarding:

"said display unit does not block said document inserting port when said display unit is closed".

Hongoh discloses the apparatus capable of performing facsimile, Hongoh's FIG 1, facilitates the design option of the liquid crystal display, Hongoh's FIG 1/6 or FIG 2/6 or FIG 3/6, which does not block the document insert port, FIG 1/3 and release slot/port, FIG 1/4, when it is closed).